

DIVISION OF REAL ESTATE
DEPARTMENT OF COMMERCE
THAD LEVAR, ACTING DIRECTOR
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BEFORE THE DIVISION OF REAL ESTATE OF
THE DEPARTMENT OF COMMERCE
OF THE STATE OF UTAH

In the Matter of the Application of
ERIC R. ROMERO to Act as a Sales Agent

ORDER ON APPLICATION

Case No. RE-11-54912

On May 16, 2011, the Utah Division of Real Estate (Division) sent a notice of informal proceeding by certified mail to Eric R. Romero (Applicant). The notice informed Applicant that an informal adjudicative proceeding would be held before the Utah Real Estate Commission (Commission) and the Director of the Division (Director) on July 20, 2011 to determine whether he meets the statutory requirements to practice as a sales agent. The hearing took place as scheduled. The Division was represented at the proceeding by Assistant Attorney General Xanna Hardman. Applicant appeared and represented himself. The Director, pursuant to a grant of authority from the Commission and on its behalf, now enters the following findings of fact, conclusions of law, and order.

FINDINGS OF FACT

On January 6, 2011, Applicant was charged in case number 111400033 (Third District Court, Salt Lake County, Utah) with sexual battery, a class A misdemeanor. On March 21, 2011, Applicant pleaded guilty under a 12-month plea in abeyance agreement. He was fined \$150. Applicant has paid the fine and is otherwise in compliance with his plea in abeyance agreement.

Applicant explained that the charge arose from an incident that took place on August 12, 2010, approximately five months prior to the date on which he was charged. On the date of the incident, Applicant went to a coffee shop where a waitress had frequently flirted with him. She asked him to go outside with her, away from the shop's security cameras. Applicant followed the waitress outside, spoke with her for a minute or so, then hugged her and left. Applicant testified that he was surprised when he was charged five months later because he never again saw the waitress after this incident took place, and he had no indication at the time of the incident that she was upset or offended. The waitress never appeared to testify in the court proceedings.

Applicant further testified that, at the outset of the case, he was prepared to plead not guilty, but found the emotional and financial strain of ongoing court proceedings to be more than he could handle. Therefore, he felt that a plea in abeyance was his best option to resolve the case. Finally, Applicant asked the Commission and the Director to take into account that he has no other criminal history and that he has a good record of both military and community service.

CONCLUSIONS OF LAW

Utah Code § 61-2f-203(1) (2010) requires that the Division and Commission determine whether an applicant demonstrates honesty, integrity, truthfulness, reputation, and competency. Utah Administrative Code § R162-2f-201 requires the Division and the Commission to consider an applicant's past, particularly his criminal history, in making this determination.

Applicant's criminal history is troubling. Class A misdemeanors are relatively serious crimes, especially where they involve moral turpitude as in a case of sexual battery. Therefore, the Commission and Director find that Applicant's admission of guilt to a charge of this nature reflects negatively on his integrity. In addition, Applicant's term of criminal probation will remain in effect until approximately March 22, 2012. The Commission and Director find that

these circumstances reflect negatively on Applicant's reputation. Therefore, Applicant does not meet the requirements of Section 61-2f-203(1) (2010) for unrestricted licensure.

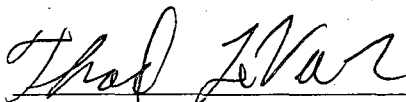
In mitigation, the Commission and Director note that this case was never adjudicated, so there are no court findings as to the events that took place or Applicant's specific conduct. In addition, certain facts tend to support Applicant's assertions that, although his conduct involved poor judgment, he did not behave violently or act intentionally so as to cause offense. These facts include the amount of time that passed between the incident and the charge, as well as the complainant's failure to appear and testify in the court proceedings. Therefore, considering the totality of the circumstances, the Commission and Director find that issuing a probationary license is justified.

ORDER

Based on the above findings of fact and conclusions of law, Eric R. Romero's application for licensure as a sales agent is granted with restriction. The license is placed on probation for the initial licensing period. During the probationary period, Mr. Romero shall comply with all laws and with the rules regulating his profession, and shall conduct himself in a way that demonstrates his qualification and fitness for continuing licensure as a real estate professional. This order shall be effective on the signature date below.

DATED this 26th day of July, 2011.

UTAH DIVISION OF REAL ESTATE



Thad Levar, Acting Director
Division of Real Estate

Notice of Right to Administrative Review:

Review of this order may be sought by filing a written request for administrative review with the Executive Director of the Department of Commerce within thirty (30) days after the issuance of this order. Any such request must comply with the requirements of Utah Code Ann. § 63G-4-301 and R151-4-902 of the departmental rules.

CERTIFICATE OF MAILING

I hereby certify that on the 26 day of July, 2011, a true and correct copy of the foregoing document was sent first class mail, postage prepaid, to the following:

Eric R. Romero
1852 W. Mojave Dr.
Salt Lake City, UT 84116

Renda Christensen